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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/774,377	02/10/2004	Stephen Fitzgerald	CECOM-05.US (2043-3-05-10	1127	
7590 12/28/2004			EXAM	EXAMINER	
David J. French			GRAHAM, MARK S		
Stn. "D" P.O. Box 2786			ART UNIT	PAPER NUMBER	
Ottawa, K1P 5W6			3711		
CANADA			DATE MAILED: 12/28/2004	DATE MAILED: 12/28/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
Office Action Commence	10/774,377	FITZGERALD ET AL.				
Office Action Summary	Examiner	Art Unit				
	Mark S. Graham	3711				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply						
A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply If NO period for reply sis specified above, the maximum statutory period we Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	6(a). In no event, however, may a reply be tim within the statutory minimum of thirty (30) days ill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	sely filed swill be considered timely. the mailing date of this communication. 0 (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on	<u>.</u>					
2a) This action is FINAL . 2b) ☐ This	action is non-final.					
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is						
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims						
4)⊠ Claim(s) <u>1-14</u> is/are pending in the application.						
4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed. 6) Claim(s) <u>1-14</u> is/are rejected.						
						7) Claim(s) is/are objected to.
8) Claim(s) are subject to restriction and/or	election requirement.					
Application Papers						
9)☐ The specification is objected to by the Examiner.						
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of: 1. Certified copies of the priority documents 2. Certified copies of the priority documents 3. Copies of the certified copies of the priori application from the International Bureau * See the attached detailed Office action for a list of	have been received. have been received in Application ty documents have been receive (PCT Rule 17.2(a)).	on No d in this National Stage				
Attachment(s)						
1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413)						
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 5) Notice of Informal Patent Application (PTO-152)						
Paper No(s)/Mail Date 6) Other:						

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-5 and 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feeney '439 in view of Belanger et al. (Belanger).

Feeney discloses that end caps may be made of composites (See Col. 2, paragraph 22). While Feeney does not provided details of the composite to be used it is known in the art to use composites of crossing continuously wound fibers to construct all parts of the bat including the end cap as disclosed by Belanger. Note Belanger's whole disclosure and Figs. 2 and 2A particularly. It would have been obvious in view of Belanger's disclosure to have formed Feeney's composite end cap in the same manner to provide a strong end cap, (Claims 1, 2, 4, 5, 8, 9, 14).

Regarding claims 3, 12, and 13, absent a showing of unexpected results, the exact weight and strength of Feeney's end cap would obviously have been up to the ordinarily skilled artisan depending on the weight and strength characteristics desired in the bat.

Concerning claims 10 and 11, absent a showing of unexpected results, the exact dimensions of Feeney's adhesive would obviously have been up to the ordinarily skilled artisan depending on the strength of the bond desired between the end cap and the bat.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 5 above, and further in view of MacKay, Jr. '750.

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Note MacKay's Fig. 6 embodiment. It would have been obvious to one of ordinary skill in the art to have shaped Feeney's end cap in the same manner if it was desired to obtain the benefits provided by that particular embodiment of MacKay's end cap, (Claim 6).

Regarding claim 7, the exact thickness of Feeney's end cap would obviously have been up to the ordinarily skilled artisan depending on the weight and strength characteristics desired in the bat.

Uke, Yanagioka, Eggiman et al., and Sutherland have been cited for interest because they disclose similar devices.

Any inquiry concerning this communication should be directed to Mark S. Graham at telephone number 571-272-4410.

MSG 12/20/04

> Mark S. Graham Bamary Examinor